

MANDATE

S.D.N.Y. – N.Y.C.
20-cv-4260
Koeltl, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of March, two thousand twenty-one.

Present:

Pierre N. Leval,
Gerard E. Lynch,
Joseph F. Bianco,
Circuit Judges.

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: May 04 2021

State of New York, The Board of Education for the City School
District of the City of New York,

Plaintiffs-Appellees,

v.

20-2429

Foundation for Individual Rights in Education,

Intervenor-Defendant-Appellant,

United States Department of Education, Miguel A. Cardona in his
official capacity as the Secretary of Education,¹

Defendants.

Intervenor-Defendant-Appellant moves for this Court to vacate, as moot, the district court order that is the subject of this appeal, and to dismiss the appeal as moot. Upon due consideration, it is hereby ORDERED that the motion is GRANTED, the district court's order denying intervention is VACATED, and the appeal is DISMISSED as moot. *See NML Cap., Ltd. v. Republic of Argentina*, 497 F. App'x 96, 98 (2d Cir. 2012); *Russman v. Bd. of Educ. of Enlarged City Sch. Dist. of City of Watervliet*, 260 F.3d 114, 121 (2d Cir. 2001); *see also Bragger v. Trinity Cap.*



¹ Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Secretary of Education Miguel A. Cardona is automatically substituted for former Secretary of Education Elisabeth DeVos as Defendant.

MANDATE ISSUED ON 05/04/2021

Enter. Corp., 30 F.3d 14, 17 (2d Cir. 1994) (“When circumstances beyond the appellant’s control render moot a judgment appealed from, . . . the general duty to vacate and dismiss applies.”).

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit